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EPA Mid-Atlantic Region Headlines

Friday, August 14, 2015

***** DAILY HOT LIST *****

Mine drainage remains a threat to NEPA water quality

WILKES-BARRE CITIZENS VOICE In western Colorado, a discharge of millions of gallons of yellow-orange drainage from an abandoned mine is cause for an emergency. Here in the former coal fields of Northeastern Pennsylvania, it's just another day. As with other Pennsylvania regions with past coal mining, drainage from abandoned mines is one of the most significant water quality issues affecting the watersheds of Scranton, Wilkes-Barre and their suburbs. The drainage contains iron, manganese and aluminum that degrades water quality in the Lackawanna and Susquehanna rivers and their tributaries. In some cases, it makes the water more acidic. Deep coal mines also steal water from streams above them as water falls into the voids through cracks in the rock. Experts say that compared to the plume of heavy metals that floated downstream from the Aug. 5 Gold King Mine spill in Colorado, the drainage from abandoned Northeast Pennsylvania mines is chemically more benign and even has one surprising bright side. But volume of the Colorado spill — 3 million gallons, according to the U.S. Environmental Protection Agency — is tiny compared to the local problem. "I shake my head because that's a one-time event, where we have it every single day," said Robert Hughes, director of the Eastern Pennsylvania Coalition for Abandoned Mine Reclamation. For example, the Old Forge Borehole in Duryea discharges roughly 60 million gallons per day into the Lackawanna River, 20 times the volume of the Colorado spill. Drilled in 1962, the borehole is an example of creating one problem by solving another. That winter, water that pooled in the abandoned coal mines below the valley burst into basements of residents of Duryea, Old Forge and Pittston. The state and federal governments drilled the hole to provide an outlet for the mine water. Two years ago, the state awarded a \$1 million grant to a firm owned by Charles Medico to buy land near the borehole for a treatment plant. That land acquisition was stalled due to problems with the site, said Thomas Reilly Jr., the Reilly Associates engineer working on the project. They hope to complete the purchase this fall, he said.

Special Report: Most RGGI States on Track to Meet Power Plan Targets

BNA DAILY ENVIRONMENT REPORT Six of the nine Northeastern states in the Regional Greenhouse Gas Initiative are on track to meet or come close to meeting by 2020 the federal Clean Power Plan's mass-based goals for 2030, according to an analysis by Bloomberg BNA. Only Maryland and Maine are not on schedule to meet the 2030 goal by 2020, when the current RGGI carbon dioxide emissions trading program is set to expire for the nine participating states, according to the analysis. In addition, every RGGI state except Maine will meet or come close to meeting by 2020 the Clean Power Plan's two-year targets for 2022-24, under the current RGGI schedule of CO₂ emissions reductions. There is no mass-based target for Vermont because the state doesn't have any power plants that qualify as electricity generating units under the federal plan. Similarly, most of the RGGI states will meet the Clean Power Plan's slightly higher 2030 mass-based targets that include existing units and the new source complement.

The goal of the Clean Power Plan (CPP), released as a final rule Aug. 3 by the Environmental Protection Agency, is to reduce overall CO₂ emissions from the power sector by 32 percent below 2005 levels by 2030. The reductions will be phased in between 2022 and 2030. The RGGI trading program, which has been operating since 2008, sells allowances in quarterly auctions that allow the holder of one allowance to emit one ton of CO₂. The proceeds are largely used by the states to fund energy efficiency, renewable energy and direct-bill assistance. Under the EPA's proposed mass-based trading plan, allowances would initially be distributed based on historical generation. The nine RGGI states—Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New York, Rhode Island and Vermont—already have reduced CO₂ emissions from the power sector by 35 percent below 2008 levels and by more than 40 percent below 2005 levels.

Fifteen States Seek Stay of EPA Clean Power Plan to Cut Carbon Dioxide

BNA DAILY ENVIRONMENT REPORT Fifteen states led by West Virginia are asking a federal appellate court to stay implementation of the Environmental Protection Agency's Clean Power Plan even though the final rule has not yet been published in the Federal Register. In a petition filed Aug. 13 in the U.S. Court of Appeals for the District of Columbia Circuit, the states argue that the court should issue an extraordinary writ to block implementation of the carbon dioxide emissions standards for power plants now because the rule imposes an immediate requirement on state regulators to begin work on a compliance plan. “The States seek an emergency stay of the rule's already-applicable deadlines through this Petition under the All Writs Act, rather than waiting for the rule's publication in the Federal Register, because EPA has chosen to render the publication date irrelevant,” the states said. “The rule unusually imposes dates certain for the submission of state plans—September 6, 2016, and September 6, 2018—regardless of when the massive rule is published. With this firm deadline, the rule requires states to spend significant and irrecoverable sovereign resources now to begin preparing their state plans.” The EPA final Clean Power Plan (RIN 2060-AR33), issued Aug. 3, sets unique carbon dioxide emissions rates or alternatively mass-based targets for the power sector in each state. State regulators will be tasked with developing plans to meet the targets, which will be phased in through 2030. The final rule has not yet been published in the Federal Register, which typically triggers the windows for opponents of the agency's Clean Air Act regulations to file lawsuits. The stay is being sought by Alabama, Arkansas, Florida, Indiana, Kansas, Kentucky,

Louisiana, Michigan, Nebraska, Ohio, Oklahoma, South Dakota, West Virginia, Wisconsin and Wyoming. Those same states already have vowed to take legal action to block the EPA's final rule.

Environmental group files suit against Berkeley County Public Service Sewer District

HAGERSTOWN HERALD-MAIL MARTINSBURG, W.Va. — An environmental group has filed a Clean Water Act complaint against the Berkeley County Public Service Sewer District in federal court, alleging repeated permit violations at the Marlowe (W.Va.) Towne Center wastewater treatment plant. "Given the Berkeley County Sewer District's longstanding history of violations, a verbal promise to address these serious violations is not enough," Brent Walls of the Potomac Riverkeeper Network Inc. said in a news release. "The only way to guarantee the district will come into compliance with their discharge permit is by having a legally enforceable consent decree." Sewer district attorney Richard Lewis said the complaint filed on Aug. 1 by Potomac Riverkeeper is unneeded because the sewer district is actively working to bring the treatment plant into compliance by the end of the year. "It's going to be a matter of months," Lewis said. The legal action against the sewer district comes as the utility is moving to complete about \$61 million in improvements to address more stringent standards on Chesapeake Bay-related pollutant discharges as well as overall operational upgrades, according to Lewis. "It's a very, very large undertaking," Lewis said of the work that is under way. The complaint filed in U.S. District Court in Martinsburg by Potomac Riverkeeper cites 57 discharge violations of pollutants at the Marlowe wastewater treatment facility, dating back to 2010, including fecal coliform, zinc and sediment. Potomac Riverkeeper has asked the court to declare that the sewer district has violated and continues to violate the Clean Water Act, enjoin the publicly run utility from committing more violations, order civil penalties for the violations and award attorneys fees, according to the complaint. Permitted to treat 50,000 gallons per day, the Marlowe Towne Center plant was built to primarily serve residential and some commercial development around the exit 23 area of Interstate 81, and it was acquired by the sewer district at a later date, according to the sewer district. A pollution discharge permit for the facility off U.S. 11 (Williamsport Pike) was first issued in 2005, according to the EPA online databases for enforcement, compliance and permit information. The facility has been deemed by the EPA to be in noncompliance, with seven quarters of "significant" violations, according to the EPA.

Editorial: What the Gold Mine Disaster Tells Us

NEW YORK TIMES The General Mining Law of 1872 is among the last surviving statutes of the boisterous era of westward expansion. Signed by Ulysses S. Grant, it establishes the basic rules for mining hard-rock minerals like gold, copper and uranium on public lands. Useful in its day, the law is a destructive relic now. It allows mining companies to buy federal land for a few dollars an acre, demands no royalties and requires minimal environmental protections while the mine is operating and no cleanup afterward. Its principal legacy, if it can be called that, is a battered landscape of abandoned mines and poisoned streams. The durability of this law, which has resisted all efforts at reform, is worth noting in the wake of a terrible mining-related disaster. On Aug. 5, a team contracted by the Environmental Protection Agency to investigate leaks from

an abandoned gold mine in Colorado accidentally unleashed a torrent of chemically laced water. The spill of more than three million gallons has poisoned over 100 miles of the Animas River with toxic wastes, turning the river a bright yellow-orange and threatening communities in Colorado, New Mexico, Utah and the Navajo Nation that draw water from the river and its tributaries. But beyond this local disaster lies a national problem: According to Earthworks, a Washington-based advocacy group, there are 500,000 of these abandoned and unreclaimed mines scattered about the country. According to the E.P.A., the drainage from these mines has contaminated roughly 40 percent of the headwater areas of Western watersheds. In other words, there are many similar disasters waiting to happen. One big reason is the permissive 1872 law: There has never been a firm legal requirement, let alone enough money, to clean these old mines up. One obvious remedy is comprehensive reform of that law. In 2007, at the urging of then-Representative Nick Rahall of West Virginia, the House passed a modest bill requiring mining companies to pay royalties, just the way oil, gas and coal producers do. The money would have been used to clean up old mines, while tough safeguards would be imposed on new ones. But a similar bill went nowhere in the Senate, where Harry Reid, then the majority leader, has been less than enthusiastic about reform because mining is big business in Nevada, his home state. Now Representative Raúl Grijalva, an Arizona Democrat, is trying again. His bill would levy royalties on both new and existing mines as well as a modest reclamation fee. Together these funds could at least begin the arduous, expensive but absolutely necessary task of addressing a major environmental problem. Perhaps this time, with the Animas disaster fresh in its mind, Congress will pay attention.

Right on track

EPA MID-ATLANTIC HEALTHY WATERS BLOG (By Jennie Saxe) I love traveling by train. Here in the Northeast, I'm a little spoiled by the many rail transit systems that spider-web across the region. But with family in New England, my office in Philadelphia, and friends in Washington, DC, one of my favorite modes of transportation is Amtrak. Here's a fun water-related fact about traveling on Amtrak: every passenger rail car that has a café, restroom, or drinking fountain is considered its own public water system. Amtrak has about 1,500 of these mobile water systems, each of which must be monitored for water quality. Detailed maintenance procedures and monitoring plans are key to protecting public health, as trains roll from coast to coast. Amtrak has been randomly sampling drinking water for over 20 years, and has been following a more detailed schedule and reporting results to EPA since 2012. Recently, EPA and Amtrak amended the 2012 agreement to extend the monitoring requirements and modify sampling schedules based on the results from all 1,500 cars to date: very few samples from 2013 and 2014 were positive for coliform bacteria (an indicator that something could potentially be wrong with the water) and no samples were positive for E. coli (a bacteria that signals contamination, and could make passengers sick). Some additional protections are part of the agreement between EPA and Amtrak. Trains do not fill at stations that have a problem with their water supply, and passengers and crew would be notified if water testing showed a problem. Riding the rails this summer? Grab your reusable water bottle and fill up! When it comes to protecting the health of rail passengers, Amtrak is right on track.

PENNSYLVANIA

PHILADELPHIA INQUIRER

NJ Sierra Club Calls on Federal EPA to Block DEP's New Water Rules (NJ) Environmentalists are asking the U.S. Environmental Protection Agency to block New Jersey from adopting rules governing flood-hazard areas. They argue that implementing the standards would lead to more pollution in streams and more flooding. In a letter to the EPA's Region II administrator, the New Jersey Sierra Club said the pending rules fail to comply with provisions of several federal programs and laws, including the Clean Water Act. The rules were proposed by the state Department of Environmental Protection in June and could be put in place by the end of the year, unless the EPA intervenes, environmentalists claim.

PITTSBURGH POST-GAZETTE

Letter: Clean air rules provide economic opportunity We Pittsburghers have proved to be adaptable, creative and determined as, again and again, we've remade our economy and our image. Often driven by necessity (the collapse of the steel industry and subsequent population decline), we are poised today to choose to become innovative leaders — this time, in the new clean energy movement. With President Barack Obama's announcement of stricter clean air regulations through the Environmental Protection Agency (the Clean Power Plan), we all have a choice to make. Gov. Tom Wolf puts it plainly: These new rules create economic opportunities for the commonwealth. I urge Sen. Bob Casey to embrace these new initiatives and help Pennsylvania lead the nation into a better future.

Homewood youth tap solar energy as 'gateway' to betterment When Jordan Blackwell and DaVontae Garner hit the studio to polish their latest rap composition, the Homewood teenagers were faced with the challenge of trying to rhyme "kilowatt-hour." The duo emerged from the session with a 3-minute song — loosely inspired by Drake's "Energy" — that helps explain why Homewood residents were turning their heads on Frankstown Avenue on Thursday. Community leaders unveiled "Renaissance Gate," an installation of solar panels mounted in a run-down lot where a rusted sign marquee used to stand. The panels were aesthetically angled to both take in sunlight and surround the steel frame of an arched gate, which 14-year-old DaVontae said symbolized a gateway to a new Homewood. "It means hope," he said. "I'm hoping that it will change the way people have been acting, change the community, make it a bit nicer." The panels sit on an unshaded corner across from the 12,000-square-foot community center owned by the Homewood Renaissance Association, a group that provides resources to the neighborhood. The panels will produce about 6,500 kilowatt-hours of electricity for the building, and electrical outlets in the poles holding the panels will provide onsite round-the-clock charging for phones and other portable devices.

LANCASTER NEWSPAPERS

Lancaster city approves Sunnyside swap; updates parking lot regulations; adopts development plan Lancaster City Council approved a land swap that would enable a long-planned housing development to go forward on the Sunnyside peninsula. Council also approved updating the city's parking lot ordinance to help control stormwater runoff. And council adopted the economic development strategic plan the Lancaster City Alliance put together to guide the city's growth over the next 10 to 15 years. Council approved the first two items by 6-0 votes with little

discussion and no public opposition. To do so, it wants to give the county a 2.63-acre triangle of land to the east of the intervention center for a 1.16-acre, county-owned tract near the southwest side of the center. Doing so would allow the developer to create an intersection it wants and reduce stormwater costs. And the county would use its parcel for parking or new county offices. Now that council has approved it, county officials are expected to approve the deal. With approval, Community Basics might break ground next year. The project was proposed in 2001. Administration officials had proposed updating parking lot regulations as part of efforts to reduce the amount of stormwater that ends up in the city's sanitary sewer system. During heavy rains, the system overflows into the Conestoga River and ultimately the Chesapeake Bay. Surface parking lots make up 32 percent of the city's impervious surface. The ordinance update would require using green infrastructure when reconstructing, resurfacing or repairing existing parking lots. The requirements would essentially kick in when more than 10 percent of a lot is being reconstructed or resurfaced; minor repairs such as patching potholes wouldn't trigger the requirements so long as they account for less than 240 square feet. Green infrastructure methods would include using porous pavement or concrete that would allow water to drain through it to a stone reservoir underneath. Lancaster is under federal pressure to reduce stormwater runoff and is trying to avoid a potentially costly consent decree with the federal government that would dictate how the city handles stormwater.

WILKES-BARRE CITIZENS VOICE

Mine drainage remains a threat to NEPA water quality In western Colorado, a discharge of millions of gallons of yellow-orange drainage from an abandoned mine is cause for an emergency. Here in the former coal fields of Northeastern Pennsylvania, it's just another day. As with other Pennsylvania regions with past coal mining, drainage from abandoned mines is one of the most significant water quality issues affecting the watersheds of Scranton, Wilkes-Barre and their suburbs. The drainage contains iron, manganese and aluminum that degrades water quality in the Lackawanna and Susquehanna rivers and their tributaries. In some cases, it makes the water more acidic. Deep coal mines also steal water from streams above them as water falls into the voids through cracks in the rock. Experts say that compared to the plume of heavy metals that floated downstream from the Aug. 5 Gold King Mine spill in Colorado, the drainage from abandoned Northeast Pennsylvania mines is chemically more benign and even has one surprising bright side. But volume of the Colorado spill — 3 million gallons, according to the U.S. Environmental Protection Agency — is tiny compared to the local problem. "I shake my head because that's a one-time event, where we have it every single day," said Robert Hughes, director of the Eastern Pennsylvania Coalition for Abandoned Mine Reclamation. For example, the Old Forge Borehole in Duryea discharges roughly 60 million gallons per day into the Lackawanna River, 20 times the volume of the Colorado spill. Drilled in 1962, the borehole is an example of creating one problem by solving another. That winter, water that pooled in the abandoned coal mines below the valley burst into basements of residents of Duryea, Old Forge and Pittston. The state and federal governments drilled the hole to provide an outlet for the mine water. Two years ago, the state awarded a \$1 million grant to a firm owned by Charles Medico to buy land near the borehole for a treatment plant. That land acquisition was stalled due to problems with the site, said Thomas Reilly Jr., the Reilly Associates engineer working on the project. They hope to complete the purchase this fall, he said.

'Marcellus Shale Reality Tour' heads to Dallas The Gas Drilling Awareness Coalition will hold

the latest in its “Marcellus Shale Reality Tour” series with a screening of a new 20-minute video, “Atlantic Sunrise Surprise” at 7 p.m. Wednesday, Aug. 19 at the American Legion post in Dallas, 730 Memorial Highway (state Route 415). The 20-minute video shows the struggle of two women in dealing with a pipeline company that wants to use eminent domain to build a natural gas compressor station 500 feet from the farmer’s family home, and a pipeline that will go through both the home and the business of a horse veterinarian, shutting her business down for a year and a half. The women in the film, Carol Mohr and Dr. Linda Quodomine, will be on hand to answer questions. Elected officials from all Luzerne County communities affected by the pipelines have also been invited.

WASHINGTON, D.C.

WASHINGTON POST

If global warming really did pause, the planet seems to have pressed ‘play’ again In June, in a bombshell study in Science, federal researchers with the National Oceanic and Atmospheric Administration’s National Centers for Environmental Information (NCEI) took away climate skeptics’ number one favorite argument — the notion that in recent years, global warming had slowed down or hit a “pause.” Applying a number of corrections and adjustments to their dataset of global temperatures — one of the world’s most influential and widely used — so as to correct for lingering biases, the NOAA researchers pronounced that the “newly corrected and updated global surface temperature data...do not support the notion of a global warming ‘hiatus.’” Not everyone, though, is convinced. And this week in Science, climate scientist Kevin Trenberth of the National Center for Atmospheric Research in Boulder, Co, counters by once again making the case that there really was a global warming “hiatus” from about 1998 to 2013.

“The perception of whether or not there was a hiatus depends on how the temperature record is partitioned,” Trenberth writes. The NOAA scientists, Trenberth argues, picked 1950 as a starting year for their analysis, which happens to have been right in the middle of — that’s right — another “pause.” This, Trenberth says, reduced the trend from 1950 to 1999, and thus would have made 1998-2013 seem more comparable to it.

Drones could be stressing out wildlife, scientists suggest The rising popularity of unmanned aerial vehicles (UAVs) has caused them to show up everywhere from private back yards to national parks, and the drones have proven useful for all kinds of applications, including recreation, military defense and even scientific research. As a result, although drones and wildlife might not seem like they should ever mix, more and more frequently they do. One increasing use for UAVs is allowing scientists, conservationists and even ecotourists to get up close and personal with nature. They have been used to ward off rhino and elephant poachers in Africa and collect data on wild humpback whales. Amateur drone operators have used UAVs to collect videos and photographs of wildlife, such as dolphins, in their natural habitats. But as much as UAVs are becoming more common among wildlife researchers and enthusiasts, there has been little research on how the animals actually react to the aircraft. Measuring animals’ reactions to drones buzzing around overhead is important for figuring out how much stress the aircraft may be putting on the local fauna, say researchers from the University of Minnesota. And they have just released a study that lead author Mark Ditmer, a postdoctoral researcher in

the University of Minnesota's Department of Fisheries, Wildlife and Conservation Biology, says he hopes will encourage more research on the subject.

New union president promises to work 'extremely hard' for federal employees Tony Reardon became president of the second largest federal employee union Thursday without ever being a fed. That apparently mattered little to delegates at the National Treasury Employees Union (NTEU) convention in Hollywood, Fla. They rewarded his 25-year history of working for them with 89 percent of the vote, crushing three other candidates. After joining NTEU's staff in 1990, he rose through the ranks to become executive vice president before this week's promotion. He succeeds Colleen M. Kelley, a former IRS revenue agent who retired after 16 years as president. His labor activism dates to 1973, when young Tony was in the third grade. He was rushing down the stairs in his Florissant, Mo., home, on his way to McCurdy Elementary School, when his father asked where the youngster was going.

WASHINGTON EXAMINER

Trump says EPA's toxic spill bound to 'kill everything' GOP presidential front-runner Donald Trump says a toxic spill unleashed by an Environmental Protection Agency contractor is a "disgraceful" event that is bound to "kill everything" in the Animas and San Juan rivers, which turned yellow from a cocktail of chemical sludge. Trump made the comments on the Hugh Hewitt radio show Wednesday. "I'm looking at that every night now on the news, and the water is pure yellow. It's all acid, the worst stuff," Trump commented. Its "probably going to kill the fish, kill everything. And it was totally their mistake." Trump said the chemical spill that has captivated the news cycle for days is a prime example of why states should be in charge of their own waste facilities, and not Washington. The spill occurred at a gold mine in Colorado Aug. 5 when an EPA contractor accidentally ruptured a containment wall holding back millions of gallons of contaminated sludge. "They opened the wrong door and all of this stuff spewed out," said Trump. "This is all the more example why ... we should do it locally. We shouldn't be doing it from Washington. It's disgraceful." Hewitt asked Trump whether he would fire the head of the EPA if the same thing happened on his watch. "That depends," he said. "Look, everybody makes mistakes." "But this is a terrible thing," he added. "They just made a pure mistake. Often times for a thing like this, you have to just get rid of them." EPA Administrator Gina McCarthy has come under criticism from both Republicans and Democrats for how the agency handled its response to the incident. She is now in Colorado overseeing the response effort personally.

WASHINGTON TIMES

Erin Brockovich: EPA must fire people in Colorado spill Erin Brockovich, the anti-pollution crusader made famous in the eponymous movie starring Julia Roberts, says the EPA's apology for the Gold King Mine spill "just ain't gonna cut it" and urged the agency to "fire people" if necessary. "Yesterday, EPA chief Gina McCarthy said she was 'absolutely deeply sorry,'" Ms. Brockovich said Wednesday on Facebook. "Well, that isn't enough. You can apologize for calling someone names or even for a DUI, but an apology for a toxic disaster just ain't gonna cut it." Ms. Brockovich urged the EPA to take four steps: provide "full disclosure," minimize the damage to the environment, pay economic damages and "this is the most important, it must take steps to ensure this doesn't happen again, including firing people, taking action, and containing the toxic mining sites all across the west." "If it does that, it will still get bad marks for letting it happen but good marks for the proper reaction," she added. "That's how you handle a crisis."

Ms. Brockovich's weigh-in came as Ms. McCarthy spent her second day touring the river contamination sites, this time along the San Juan River in New Mexico, which picked up the spill from Colorado's Animas River.

WAMU-RADIO (NPR)

What A Supercharged El Niño Would Mean For The D.C. Region (Audio link) Around the equator, the Pacific Ocean is warming up. The phenomenon is known as El Niño. And right now it's getting stronger. Mike Halpert with the National Oceanic and Atmospheric Administration's Climate Prediction Center says El Niño could become "very strong" this year. "We're predicting this El Niño could be among the strongest El Niños in the historical record dating back to 1950," Halpert says. To discuss what it means for the D.C. region and other parts of the United States including drought-afflicted California, *Washington Post* Capital Weather Gang meteorologist Angela Fritz answered questions about El Niño on WAMU.

DELAWARE

WILMINGTON NEWS JOURNAL

New Assawoman Canal trail a first step Delaware's newest bike trail is just a mile long right now, but it already connects Ocean View, Bethany and South Bethany beaches. State officials hope to extend it to more than four miles and get cyclists and pedestrians off the vehicle-congested roadways in the area. The first phase of the Assawoman Canal Trail officially opened Wednesday, although residents have been using it for weeks. It meanders through woods and along the narrow waterway – hand dug by Italian immigrants 125 years ago as a water route to transport strawberries and other produce to market in a time when roads were rare in what was rural eastern Sussex County. The area later became famous as the birthplace of the Delmarva poultry industry but these days, it is vacationers and retirees who rule the roost – many looking for outdoor options such as walking, cycling and kayaking. State Sen. Gerald Hocker, R-Ocean View, recalled that as a boy he would swim the entire length of the canal. He said he welcomed the off-road alternative for walkers and bikers. The next challenge, he said, is to get trail users under the Del. 26 bridge that crosses the canal so the trail can be extended further. And, he said, it will get people off the roads and safely away from the heavy traffic.

Oyster program aims to recycle 1,000 bushels of shell Through an oyster's life, its shell grows along with it. The rough, rock-like case is heavy in the hand of oyster-eaters, who are truly after the soft, salty oyster inside. At the oyster bar, patrons have a choice of topping for raw oysters – lemon, horseradish, garlic and hot sauce. The owners of those restaurants have a choice, too. When the oyster is eaten the shell is discarded. It can go in the trash, or, thanks to shell recycling programs, it can help oyster restoration efforts. The Center for the Inland Bays has had a recycling program of its own for almost a year now, called Don't Chuck Your Shucks. It has recycled 750 bushels of oyster shell so far, and the center's goal is to hit 1,000 bushels by the start of September. "We love it," Bethany Oyster House owner Tim Haley said. It helps his restaurant because he isn't filling his dumpsters with shells, he said. His customers also appreciate the service. "They like to know the shells are going for good use," he said. Pick-ups

at Haley's restaurant and 11 others throughout the region happen twice a week. The shells then go to be cured for six months to a year to get rid of pathogens and other things that are growing on the shell, CIB employee Bob Collins said. The shells are valuable because baby oysters need something to attach to in order to grow, and other oyster shell is their favorite medium. The center has a number of projects for which the shells can be used, including oyster gardens and shoreline construction. They're for restoration programs only, Collins said. "The idea is to develop a dependable source of shells for these projects and programs," he said. The center is still considering how to use the shells collected so far. A shellfish restoration plan is currently being written for the entire watershed, which includes oysters and other shellfish, such as clams. Right now there is no way for private citizens to drop off discarded shells, but looking ahead Collins would like to establish one. "Stay tuned," he said.

DELAWARE CAPE GAZETTE

Lewes residents call for open space preservation Lewes — Preservation of the city's dwindling open space was a common thread among residents speaking at Lewes City Council's Aug. 3 public hearing on the draft of the comprehensive plan. The city's planning commission has been working on the comp plan for more than a year, offering recommendations on growth and city decisions over the next 10 years. The commission recently completed its work and presented a draft to city council for review. The 129-page document is due to the state this fall. For years, residents have been passionate about an area of the city called the Fourth Street Woodlands, a 53-acre area west of the historic district. Signs have popped up throughout the city from community group Saving A Lewes Legacy urging council to "Save the Fourth Street Woodlands." Many supporters reinforced their point at the public hearing. "I think most of us would not like to see that area essentially leveled," said Canary Creek resident Kurt Smith. "Canary Creek has no tree coverage. It's discernibly noticeable." Resident Ric Moore pointed to the city's 2005 comp plan, which called for preservation of the woodland area. "I suggest that not only is there strong public interest, but that's exactly what the 2005 plan said to do," he said. "It directed the city to acquire these properties if at all possible." A plan to develop one of the two parcels in the woodlands is currently under review by the city. If approved, Highland Heights would use 18.5 acres of the woodland area to build 34 homes. The city has not received an application to develop the remaining section of the woodlands. Resident Jim Sleasman encouraged council to avoid including recommendations that may dissuade developers from annexing their new developments into the city. "If we don't work with them, they're going to do it anyway with the county," he said. "Then, we'll have no tax revenue and no say on what they're doing and what they'll build. I think you're going to get more working with some of these guys than working against them."

WEST VIRGINIA

ASSOCIATED PRESS (W. Va.)

Disaster loans available to nonprofits in 8 W.Va. counties CHARLESTON, W.Va. - Nonprofit groups in eight West Virginia counties are eligible to apply for federal disasters loans to help recover from severe storms last month. The U.S. Small Business Administration announced the availability of the loans Wednesday to groups in Braxton, Clay, Lincoln, Logan, Nicholas,

Roane, Webster and Wood counties. Gov. Earl Ray Tomblin issued a state of emergency after heavy rains, rockslides, mudslides and severe flooding occurred in mid-July. Nonprofit groups can borrow up to \$2 million to repair or replace damaged or destroyed property, equipment, inventory and other business assets. Federal disaster loans to help meet working capital needs also are available.

CSX train derails in Northern WV; no chemicals released NEW MARTINSVILLE, W.Va. — Authorities said a CSX chemical train derailed in Marshall County but that no chemicals were spilled. WTOV-TV reported that four cars left the tracks near the Axial chemical plant around 2:30 a.m. Thursday near New Martinsville. Two cars that derailed carried chlorine and two others contained hydrochloric acid. Marshall County Emergency Management Director Tom Hart said no rail cars overturned, no chemicals were released into the environment and no one was injured. The cause of the incident is under investigation.

MARYLAND

EASTON STAR DEMOCRAT

Employees mark 10 years with Environmental Concern ST. MICHAELS -- This past year marked a major milestone for three employees of Environmental Concern Inc., celebrating their 10-year anniversary with the St. Michaels-based nonprofit. Christopher Oakes, Diane Miller and Jessica Lister were honored with plaques and commemorative pins at a recognition dinner, according to a news release from EC. "On behalf of the Environmental Concern team, we wish to extend our heartfelt congratulations and thanks to our staff members," Suzanne Pittenger-Slear, EC president, said in the release. "Chris, Diane and Jess have been key contributors to our organization's success. We appreciate their continuing commitment to EC's mission over the years." Oakes joined Environmental Concern as a restoration specialist. He was ready to learn every aspect of his new position when he started with EC more than a decade ago. In his current position as wetland restoration supervisor, Oakes oversees onsite project management. Oakes also supervises site surveys, installation and maintenance of living shorelines, stormwater wetlands, ponds and rain gardens. He is a skilled equipment operator and holds a Maryland State Highway Administration Erosion and Sediment Control Certification. Oakes lives in Caroline County with his wife Nikki and 2-year-old twins, Jules and Cole. Oakes, when not working, enjoys working on cars and camping with his family. Miller, EC's restoration ecologist, is a certified professional wetland scientist. She designs tidal and non-tidal wetlands and transitional habitats. Miller also prepares the permit documentation, buffer management plans and erosion and sediment control plans for EC's restoration projects. Miller holds a Master of Science in Landscape Architecture (Restoration Ecology) from the University of Wisconsin and a Bachelor of Science in Environmental Resource Management from Pennsylvania State University. Miller is also certified in Maryland State Highway Administration Erosion and Sediment Control. Miller lives in Dorchester County and enjoys gardening, home do it yourself projects, stained glass, photography and kayaking.

HAGERSTOWN HERALD MAIL

Environmental group files suit against Berkeley County Public Service Sewer District

MARTINSBURG, W.Va. — An environmental group has filed a Clean Water Act complaint against the Berkeley County Public Service Sewer District in federal court, alleging repeated permit violations at the Marlowe (W.Va.) Towne Center wastewater treatment plant. "Given the Berkeley County Sewer District's longstanding history of violations, a verbal promise to address these serious violations is not enough," Brent Walls of the Potomac Riverkeeper Network Inc. said in a news release. "The only way to guarantee the district will come into compliance with their discharge permit is by having a legally enforceable consent decree." Sewer district attorney Richard Lewis said the complaint filed on Aug. 1 by Potomac Riverkeeper is unneeded because the sewer district is actively working to bring the treatment plant into compliance by the end of the year. "It's going to be a matter of months," Lewis said. The legal action against the sewer district comes as the utility is moving to complete about \$61 million in improvements to address more stringent standards on Chesapeake Bay-related pollutant discharges as well as overall operational upgrades, according to Lewis. "It's a very, very large undertaking," Lewis said of the work that is under way. The complaint filed in U.S. District Court in Martinsburg by Potomac Riverkeeper cites 57 discharge violations of pollutants at the Marlowe wastewater treatment facility, dating back to 2010, including fecal coliform, zinc and sediment. Potomac Riverkeeper has asked the court to declare that the sewer district has violated and continues to violate the Clean Water Act, enjoin the publicly run utility from committing more violations, order civil penalties for the violations and award attorneys fees, according to the complaint. Permitted to treat 50,000 gallons per day, the Marlowe Towne Center plant was built to primarily serve residential and some commercial development around the exit 23 area of Interstate 81, and it was acquired by the sewer district at a later date, according to the sewer district. A pollution discharge permit for the facility off U.S. 11 (Williamsport Pike) was first issued in 2005, according to the EPA online databases for enforcement, compliance and permit information. The facility has been deemed by the EPA to be in noncompliance, with seven quarters of "significant" violations, according to the EPA.

MONTGOMERY COUNTY SENTINEL

Environmental literacy made Md. graduation requirement In 2012, the Maryland State Department of Education passed new regulations requiring graduating high school seniors to be environmentally literate, making Maryland the only state in the country with this requirement. The Maryland Environmental Literacy Partnership (MELP) seeks to provide teachers throughout the state with the necessary tools to help their students meet this requirement. Coordinated by the Chesapeake Bay Foundation in partnership with the Department of Education, the University of Maryland Center for Environmental Science, the National Oceanic and Atmospheric Administration, and nine leading Maryland school districts, MELP provides training which immerses teachers in the environments they study in the classroom. Last week, teachers from several different counties participated in an intensive training workshop. They spent three days on Smith Island in the Chesapeake Bay, followed by one day in Baltimore's Inner Harbor and finally a review day at a Prince George's County high school. Rosetta Jordan, a biology teacher at Magruder High School, was one of three Montgomery County Teachers who volunteered for the program. "It was one of the best professional development workshops that I've ever been part of," Jordan said. "It was definitely intensive, and hands on. We were on boats most of the time, we went crabbing and learned about life on the bay from the point of view of watermen, and we learned about indicators of water quality." Jordan said that in future curricula, she will require students to work in groups to develop an action plan for preventing environmental damage the

bay. "Science and social studies are fields that seem to be very different, but combining them to protect the bay makes perfect sense," Jordan said.

SOUTHERN MARYLAND NEWS

Studying Pax River's Diamondback Terrapins PATUXENT RIVER, Md. -- Neither sand, nor heat, nor biting insects can prevent a dedicated group of volunteers from the swift completion of their appointed rounds, surveying the nests of Diamondback Terrapins aboard NAS Patuxent River. For more than two months, the group—comprised of Sailors, civilians, contractors and retirees—has scoured Pax River's beaches looking to first locate terrapin nests, and now to follow them closely through hatching. "During nesting season, which starts in mid-May, we're out there once per day usually between 4 p.m. and 6 p.m. looking for as many nests as we can find," explained biologist Sarah Funck, who first led the terrapin study as a student intern when it began three years ago. "The females seem to nest during the earlier part of the day, and if we give them that time undisturbed, we can go through later looking for nests and probably won't miss much. During hatching season, now through early October, we'll be out there twice per day." Funck, who went on to earn a master's degree and land a full-time job, continues to coordinate the Pax study as a volunteer. "I do it because I love it; it's my passion," she noted. "In my current job, I sit in front of a computer or am in the lab. This takes care of that side of me that needs to be out in the field, getting dirty and doing the work."

VIRGINIA

RICHMOND TIMES-DISPATCH

Group's grants support projects to help restore Chesapeake Bay The Chesapeake Bay Restoration Advisory Committee is accepting grant applications to conduct Chesapeake Bay-related education and restoration activities. The grants are funded by the sale of the special Chesapeake Bay license plate "Friend of the Chesapeake." This year, \$357,223 in grant money will be awarded to eligible applicants. During this past year, 52 grantees received \$264,462 in grant funds. Since 1996, over \$7 million has been awarded as a result of the sale of the "Bay plate." The deadline for submitting a proposal for 2016 support grants is Oct. 1, 2015. Grant funds will be awarded in May-June 2016. To be eligible for receiving a grant, applicants should submit proposals emphasizing environmental education or restoration and conservation of the Chesapeake Bay. Projects focusing on environmental education should increase public awareness and knowledge about the Bay, and projects of a restoration and conservation nature should be action oriented. Grants are awarded for one year, except in special circumstances. Grant funds may not be used to supplant existing state or local general fund appropriations. Applications will be accepted from private not-for-profit conservation organizations, schools and universities, and governmental agencies whose projects will affect water bodies that are located within the Chesapeake Bay watershed. There is no limit on the amount that an applicant may request. More information on the Chesapeake Bay Restoration Fund, including the application, W-9 and EDI forms (both new), grant guidelines and a catalogue of past projects can be found at <http://dls.virginia.gov/commissions/cbr.htm>. Those interested also may obtain information, applications, W-9 and EDI forms, and guidelines by contacting the Division of Legislative Services, General Assembly Building, 201 North 9th St., 2nd Floor, Richmond VA 23219, 804-

786-3591. General Assembly members of the Advisory Committee are Senator McWaters of Virginia Beach, Delegate Hodges of Urbanna and Delegate Ransone of Kinsale. Citizen members include Terra Pascarosa Duff of Virginia Beach, John W. Peterson of Burke, Claiborne B. Roberts of Sandston and Daniel G. Van Clief III of Charlottesville.

BRISTOL HERALD COURIER

Effort under way to clean up Bland County waterways State water quality experts say that several creeks in Bland County are impaired with a high amount of fecal bacteria, and they have embarked on a process to clear it up. Officials met with residents last week to discuss the issue. Martha Chapman of the Virginia Department of Environmental Quality said the source of the contamination is E. coli bacteria, which is associated with the feces of warm-blooded animals. "We think livestock and failing septic systems are the biggest sources of the bacteria," she said in an email. The DEQ's water monitoring data indicates elevated levels of bacteria in Walker Creek, Town Creek, East Wilderness Creek, Nobusiness Creek, Kimberling Creek, and Little Walker Creek. DEQ is beginning to develop a study to identify sources of bacteria and the reductions needed to restore bacteria to acceptable levels. According to Chapman, the elevated bacteria levels means there is a risk of gastrointestinal illness for people who swim in the creek. She said the violation rates are highest in Town Creek (63 percent) and Nobusiness Creek (53 percent). The impaired segments include: 33.53 miles of Walker Creek from the Route 52 crossing to the confluence with Kimberling Creek; 4.40 miles of Town Creek from the headwaters downstream to the confluence with Crab Orchard Creek; 3.35 miles of East Wilderness Creek from the confluence with Wolf Pen Branch upstream 3.2 miles; 4.88 miles of Kimberling Creek from the Hiram Thompson Branch confluence upstream to Hazel Branch; 6.72 miles of Nobusiness Creek from the confluence with Kimberling Creek upstream 6.4 miles.

LOUDOUN TIMES-MIRROR

Sen. Dick Black rips 'global warming theology' and EPA's 'Bolshevik communists' State Sen. Dick Black railed against the Environmental Protection Agency and "global warming theology" at an Americans for Prosperity grassroots event in Dulles earlier this week. Along with former Attorney General Ken Cuccinelli (R), Black pilloried the EPA, likening its employees to "Bolshevik communists." "I'm going to tell you, the folks in the EPA -- and I hope I don't offend anybody whose had association -- but I'm going to tell you they are as close to Bolshevik communists as anybody you will ever meet," Black (R-13th) told a crowd of about 18 people. "They are extreme to the Nth degree." One of the most fervently conservative senators in Richmond, Black went on to label the EPA "corrupt" and "incompetent." The Tuesday night forum focused on EPA regulations and President Barack Obama's proposed Clean Power Plan. Announced earlier this month, the CPP aims to reduce carbon emissions by shutting down more than 60 power plants across the country and forcing states to cut their emissions over the next two decades. States must submit their plans by 2018, although several coal-heavy states and industries have pledged to fight the EPA strategy. Americans for Prosperity, a political advocacy group backed by billionaire brothers and oil magnates Charles and David Koch, sharply opposes the plan. Black and an Americans for Prosperity official pledged to fight the administration through state legislation in the General Assembly's 2016 session. While the new regulations may ever-so-minimally improve the environment, the economic cost and lost jobs will be devastating, they said. Under the proposal, Black said, electric bills for individuals and businesses will go up 20 percent, while global temperatures will only be reduced by "two one-hundredths of one

degree.” “We're going to impose this massive increase for this minuscule, almost immeasurable difference in temperature,” Black said. “... They say that they're going to stop the sea from rising one-one hundredth of an inch. That's the thickness of three sheets of paper.” Black believes the Clean Power Plan is part of a government scheme to send billions in taxpayer funds to “wind and solar scams” and “billionaire liberals.” The Loudoun-based senator and Cuccinelli mocked “global warming theology” and the CPP's aim, belittling widespread scientific consensus that Earth's climate system is warming and that man is likely contributing. Black said global warming is “kind of hokey” and was “silly from the outset.” Global temperatures have not risen in the past 17 years, he said. “I think God is just having fun with the globalists. He really is,” Black said. “For nine straight years we have not had a major hurricane strike the United States mainland.”

NELSON COUNTY TIMES

Pipeline case in West Virginia kindles hope in local opposition Following a West Virginia ruling concerning the Mountain Valley Pipeline and survey rights, landowners in Nelson county finally are feeling like there is hope in slowing down their own pipeline fight. On Aug. 5, Monroe County Circuit Court Judge Robert Irons ruled surveyors seeking a route for the Mountain Valley Pipeline, which would run from West Virginia to southern Virginia, could not enter the property of county landowners who had denied access. The ruling came just one day after a hearing in Charlottesville concerning the Atlantic Coast Pipeline, which is planned to run through Nelson County on its way from West Virginia to North Carolina. Though there was no resolution at that hearing in U.S. District Court in Charlottesville, Judge Elizabeth Dillion said she understood the importance of the case. Ernie Reed, President of Wild Virginia, said that was a good thing because of the recent case in West Virginia. “It's really significant,” he said. “Though in a different state, it might bode well with the case involving the Virginia Code.” Virginia Code 56-49.01 allows pipeline companies to survey without a property owner's permission if the company follows the necessary requirements.

MISCELLANEOUS

EPA MID-ATLANTIC HEALTHY WATERS BLOG

Right on track (By Jennie Saxe) I love traveling by train. Here in the Northeast, I’m a little spoiled by the many rail transit systems that spider-web across the region. But with family in New England, my office in Philadelphia, and friends in Washington, DC, one of my favorite modes of transportation is Amtrak. Here’s a fun water-related fact about traveling on Amtrak: every passenger rail car that has a café, restroom, or drinking fountain is considered its own public water system. Amtrak has about 1,500 of these mobile water systems, each of which must be monitored for water quality. Detailed maintenance procedures and monitoring plans are key to protecting public health, as trains roll from coast to coast. Amtrak has been randomly sampling drinking water for over 20 years, and has been following a more detailed schedule and reporting results to EPA since 2012. Recently, EPA and Amtrak amended the 2012 agreement to extend the monitoring requirements and modify sampling schedules based on the results from all 1,500 cars to date: very few samples from 2013 and 2014 were positive for coliform bacteria (an indicator that something could potentially be wrong with the water) and no samples were positive for E. coli (a bacteria that signals contamination, and could make passengers sick).

Some additional protections are part of the agreement between EPA and Amtrak. Trains do not fill at stations that have a problem with their water supply, and passengers and crew would be notified if water testing showed a problem. Riding the rails this summer? Grab your reusable water bottle and fill up! When it comes to protecting the health of rail passengers, Amtrak is right on track.

BNA DAILY ENVIRONMENT REPORT

Fifteen States Seek Stay of EPA Clean Power Plan to Cut Carbon Dioxide Fifteen states led by West Virginia are asking a federal appellate court to stay implementation of the Environmental Protection Agency's Clean Power Plan even though the final rule has not yet been published in the Federal Register. In a petition filed Aug. 13 in the U.S. Court of Appeals for the District of Columbia Circuit, the states argue that the court should issue an extraordinary writ to block implementation of the carbon dioxide emissions standards for power plants now because the rule imposes an immediate requirement on state regulators to begin work on a compliance plan. "The States seek an emergency stay of the rule's already-applicable deadlines through this Petition under the All Writs Act, rather than waiting for the rule's publication in the Federal Register, because EPA has chosen to render the publication date irrelevant," the states said. "The rule unusually imposes dates certain for the submission of state plans—September 6, 2016, and September 6, 2018—regardless of when the massive rule is published. With this firm deadline, the rule requires states to spend significant and irrecoverable sovereign resources now to begin preparing their state plans." The EPA final Clean Power Plan (RIN 2060-AR33), issued Aug. 3, sets unique carbon dioxide emissions rates or alternatively mass-based targets for the power sector in each state. State regulators will be tasked with developing plans to meet the targets, which will be phased in through 2030. The final rule has not yet been published in the Federal Register, which typically triggers the windows for opponents of the agency's Clean Air Act regulations to file lawsuits. The stay is being sought by Alabama, Arkansas, Florida, Indiana, Kansas, Kentucky, Louisiana, Michigan, Nebraska, Ohio, Oklahoma, South Dakota, West Virginia, Wisconsin and Wyoming. Those same states already have vowed to take legal action to block the EPA's final rule.

Special Report: Most RGGI States on Track to Meet Power Plan Targets Six of the nine Northeastern states in the Regional Greenhouse Gas Initiative are on track to meet or come close to meeting by 2020 the federal Clean Power Plan's mass-based goals for 2030, according to an analysis by Bloomberg BNA. Only Maryland and Maine are not on schedule to meet the 2030 goal by 2020, when the current RGGI carbon dioxide emissions trading program is set to expire for the nine participating states, according to the analysis. In addition, every RGGI state except Maine will meet or come close to meeting by 2020 the Clean Power Plan's two-year targets for 2022-24, under the current RGGI schedule of CO₂ emissions reductions. There is no mass-based target for Vermont because the state doesn't have any power plants that qualify as electricity generating units under the federal plan. Similarly, most of the RGGI states will meet the Clean Power Plan's slightly higher 2030 mass-based targets that include existing units and the new source complement.

The goal of the Clean Power Plan (CPP), released as a final rule Aug. 3 by the Environmental Protection Agency, is to reduce overall CO₂ emissions from the power sector by 32 percent

below 2005 levels by 2030. The reductions will be phased in between 2022 and 2030. The RGGI trading program, which has been operating since 2008, sells allowances in quarterly auctions that allow the holder of one allowance to emit one ton of CO₂. The proceeds are largely used by the states to fund energy efficiency, renewable energy and direct-bill assistance. Under the EPA's proposed mass-based trading plan, allowances would initially be distributed based on historical generation. The nine RGGI states—Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New York, Rhode Island and Vermont—already have reduced CO₂ emissions from the power sector by 35 percent below 2008 levels and by more than 40 percent below 2005 levels.

Industry, Environmental Groups Express Concerns on Ozone Rule Industry and environmental groups tell the White House of their concerns about the EPA's review of the national ozone standards expected to be completed by Oct. 1. A coalition of 370 industry associations urges the Obama administration to retain the current ozone standard of 75 parts per billion, while the American Lung Association and 11 other public health organizations call on the administration to set “truly protective” ozone standards.

Court Sets Aside Permits Allowing Unintentional Harm to Eagles A federal rule allowing 30-year permits for unintentional harm to eagles is set aside by a federal court and remanded for environmental analysis to the U.S. Fish and Wildlife Service. In a blow to the wind energy industry, the U.S. District Court in Northern California says the 2013 rule violates the National Environmental Policy Act because it was issued without an environmental analysis or a lengthier environmental impact statement.

Obama to Visit Alaska as Part of Climate Campaign President Obama will tour the Alaskan Arctic later this month and meet with residents who he says are experiencing firsthand the impact of rapidly melting ice. The visit comes as the White House seeks to focus attention on environmental issues ahead of the global climate talks in Paris at the end of the year. Obama will become the first sitting U.S. president to visit the Alaskan Arctic and will meet with people directly experiencing the impact of climate change, the White House says.

BNA Insights: Interpreting New Regulations on U.S. Waters The U.S. Army Corps of Engineers and the EPA issued a new regulation May 26 interpreting the jurisdictional scope of the Clean Water Act, following several Supreme Court decisions that muddled the issue. The regulations make several important changes to how the agencies will assert jurisdiction over wetlands and other waters not currently covered. In this BNA Insights article, Damien M. Schiff and Paul J. Beard explain how the agencies have sought to define which waters and wetlands would be subject to Clean Water Act requirements and the areas where things remain the same.

Youths Sue Federal Government Over Climate Change A group of youths is suing the federal government for allegedly violating their constitutional rights to life, liberty and property by continuing to develop fossil fuels despite knowing the dangers caused by climate change to

current and future generations. The youngsters, who range in age from 8 to 19, ask the U.S. District Court in Oregon to order the Obama administration to implement policies that would bring atmospheric concentrations of carbon dioxide back down to a "safe" level of 350 parts per million by 2100.

GREENWIRE

EPA halts all mine cleanup work in spill's wake U.S. EPA will halt its investigation work at all mines and tailing facilities nationwide in the wake of an accident that ejected more than 3 million gallons of wastewater into Colorado and New Mexico river systems, Administrator Gina McCarthy said yesterday. During a visit to Durango, Colo., near the Animas River, which turned yellow last week following an ejection of water from the Gold King Mine, McCarthy said EPA is evaluating the accident, including an internal investigation and an independent review by another federal agency or an outside group. "We will learn lessons from this," said McCarthy, adding that EPA "takes full responsibility. ... No agency could be more upset." Lawmakers, including Colorado Sen. Cory Gardner (R) and House Natural Resources Chairman Rob Bishop (R-Utah), have also vowed to conduct extensive oversight into EPA's response and cleanup efforts (*E&ENews PM*, Aug. 12). McCarthy said the agency has suspended work at other mine cleanup sites to reduce the potential for similar spills. "We will hold ourselves to a higher standard than anyone else," McCarthy said. In a statement released yesterday, McCarthy clarified that work may continue at some sites if "there is imminent risk in a specific case." "While we stand down on existing field investigations and assessments at these mining sites, we also are instructing our regions to identify existing sites with similarities to the Gold King Mine site and to identify any immediate threats and consider appropriate response actions," McCarthy said in the statement.

ENERGY POLICY: Economists, advocates square off over efficiency For energy efficiency, it's time to put up or shut up. With energy efficiency playing a big role in U.S. EPA's Clean Power Plan for curbing the power sector's greenhouse gas emissions and the Department of Energy continuing its rollout of power-sipping standards for appliances, hard questions are being asked about whether taxpayers are getting a good bang for their buck. It's economists versus advocates. "In a way, we are speaking different languages," explained Arik Levinson, a professor at Georgetown University and a former senior economist for President Obama's White House Council of Economic Advisers. "I define savings from energy efficiency as the difference between consumption with energy-efficient appliances and an otherwise identical alternative world without energy efficiency," he explained. On the other side of the ring, Levinson said, are engineers: "Lawrence Livermore Lab wants to just run two air conditioners side by side -- one energy efficient and one not." Even with very sophisticated house mockups and models, he said, "that lab is not the place in the world where it is going to be used."

COAL: Court rules 2 W.Va. mines degraded waterways A federal judge yesterday ruled that a Consol Energy Inc. subsidiary illegally polluted creeks near two of its West Virginia coal mines in a significant win for environmental groups. Federal Judge Robert Chambers for the Southern District of West Virginia ruled that there was a "preponderance of evidence" that Fola Coal Co. violated the terms of its state and federal water permits with discharges at valley fills near two

mines in Nicholas and Clay counties east of Charleston. The Appalachian valley where the discharges occurred flows into tributaries of Leatherwood Creek. Environmentalists, frustrated by inaction by the state and U.S. EPA, filed the lawsuit claiming the pollution was harming aquatic ecosystems downstream. Chambers agreed in a 60-page opinion that faulted the coal company for high levels of so-called ionic pollution, which is measured by electric conductivity tests of water and is extremely difficult and expensive to control. "Ionic pollution," he wrote, has "caused or materially contributed to significant adverse impact to the chemical and biological components of the applicable streams' aquatic ecosystem, in violation" of the company's state and federal permits. He added that the scientific evidence concerning ionic pollution is solid. "The link between surface mining and biological impairment of downstream waters has been sufficiently -- if not definitively -- established in the scientific literature," he wrote. "Through myriad lines of evidence, researchers have reached the same general causation conclusion, without a single peer-reviewed publication reporting contrary findings."

CLEAN POWER PLAN: Former Md. regulator discusses efficiency's role in compliance (Video link) How does the removal of Building Block 4 from U.S. EPA's final Clean Power Plan affect the prospects for energy efficiency as part of compliance mechanisms? During today's OnPoint, Kelly Speakes-Backman, senior vice president of policy and research at the Alliance to Save Energy and a former commissioner with the Maryland Public Service Commission, discusses where and how states should be looking to use efficiency as they craft their implementation plans. [Click here](#) to watch today's OnPoint.

ASSOCIATED PRESS

Experts see long-term risks from Colorado mine spill DURANGO, Colo. (AP) - Toxic waste that gushed from a Colorado mine and threatened downstream water supplies in at least three states will continue to be dangerous when contaminated sediment gets stirred up from the river bottom, authorities said Wednesday, suggesting there is no easy fix to what could be a long-term public health risk. The immediate impact of the 3 million gallon spill on Aug. 5 eased as the plume of contamination dissipated on its way to Lake Powell along the Utah-Arizona border. But the strong dose of arsenic, cadmium, lead and other heavy metals settled out as the wastewater traveled downstream, layering river bottoms with contaminants sure to pose risks in the future. "There will be a source of these contaminants in the rivers for a long time," said hydrologist Tom Myers, who runs a Nevada-based consulting business. "Every time there's a high flow, it will stir it up and it will be moving those contaminants downstream." The U.S. Environmental Protection Agency had pushed for 25 years to grant Superfund status to the partly collapsed Gold King mine and other idled mines leaking heavy metals above the old mining town of Silverton, Colorado. That would have brought in major funds for a comprehensive cleanup. Local authorities spurned federal intervention, leaving a smaller EPA-led team to investigate a small if steady stream of pollution. That team accidentally breached a debris wall at the mine, unleashing the pool of contaminated water that turned the Animas River yellow.

NEW YORK TIMES

Editorial: What the Gold Mine Disaster Tells Us The General Mining Law of 1872 is among the last surviving statutes of the boisterous era of westward expansion. Signed by Ulysses S. Grant, it establishes the basic rules for mining hard-rock minerals like gold, copper and uranium on public lands. Useful in its day, the law is a destructive relic now. It allows mining companies to

buy federal land for a few dollars an acre, demands no royalties and requires minimal environmental protections while the mine is operating and no cleanup afterward. Its principal legacy, if it can be called that, is a battered landscape of abandoned mines and poisoned streams. The durability of this law, which has resisted all efforts at reform, is worth noting in the wake of a terrible mining-related disaster. On Aug. 5, a team contracted by the Environmental Protection Agency to investigate leaks from an abandoned gold mine in Colorado accidentally unleashed a torrent of chemically laced water. The spill of more than three million gallons has poisoned over 100 miles of the Animas River with toxic wastes, turning the river a bright yellow-orange and threatening communities in Colorado, New Mexico, Utah and the Navajo Nation that draw water from the river and its tributaries. But beyond this local disaster lies a national problem: According to Earthworks, a Washington-based advocacy group, there are 500,000 of these abandoned and unreclaimed mines scattered about the country. According to the E.P.A., the drainage from these mines has contaminated roughly 40 percent of the headwater areas of Western watersheds. In other words, there are many similar disasters waiting to happen. One big reason is the permissive 1872 law: There has never been a firm legal requirement, let alone enough money, to clean these old mines up. One obvious remedy is comprehensive reform of that law. In 2007, at the urging of then-Representative Nick Rahall of West Virginia, the House passed a modest bill requiring mining companies to pay royalties, just the way oil, gas and coal producers do. The money would have been used to clean up old mines, while tough safeguards would be imposed on new ones. But a similar bill went nowhere in the Senate, where Harry Reid, then the majority leader, has been less than enthusiastic about reform because mining is big business in Nevada, his home state. Now Representative Raúl Grijalva, an Arizona Democrat, is trying again. His bill would levy royalties on both new and existing mines as well as a modest reclamation fee. Together these funds could at least begin the arduous, expensive but absolutely necessary task of addressing a major environmental problem. Perhaps this time, with the Animas disaster fresh in its mind, Congress will pay attention.

El Niño May Bring Record Heat, and Rain for California This year's El Niño weather pattern could be the most powerful on record, federal forecasters said, while warning that the effects of the weather system are never certain. "We're predicting this El Niño could be among the strongest El Niños in the historical record," said Mike Halpert, the deputy director of the Climate Prediction Center for the National Oceanic and Atmospheric Administration, in a teleconference with reporters. This year's El Niño is already the second strongest for this time of year in more than 60 years of record-keeping, he said. El Niño, which begins with warmer-than-usual water temperatures in the Eastern Pacific, can affect weather around the world — in the United States, it can bring heavy winter precipitation in California and across the South. El Niño events have also been linked to droughts in Australia and India, more numerous hurricanes in the Pacific Ocean (but fewer in the Atlantic), and a warmer planet over all.

CNN

Will EPA have to pay for polluting river? Recently while the Environmental Protection Agency was excavating a mine near Silverton, Colorado, to clean up the polluted water releases from the mine, a contractor working for the EPA let loose 3 million gallons of contaminated water from the mine into a tributary of the Animas River. That's right. EPA was there to help fix the water, and instead ended up contaminating a lot more water. Many are demanding that EPA be held liable for this environmental disaster, which has flooded our screens with images of mustard-

colored streams. In the past, when companies like offshore oil-drilling company Transocean and oil company BP were deemed responsible for leaking millions of gallons of oil into the Gulf of Mexico, corporate heads rolled. Money settlement figures were in the billions, and employees were criminally prosecuted. So, will the EPA similarly be held accountable? Not likely. As Mel Brooks famously said: "It's good to be the King." And, as President Nixon infamously said: "When the President does it, that means that it is not illegal." In modern times, for the EPA, it's good to be the government, especially when what it does is not illegal. Though the United States is no longer (technically) a monarchy, the government still enjoys today what is called "sovereign immunity" from civil and criminal liability. The sovereign immunity doctrine prevents any entity, governmental or private, from suing the federal government unless -- unless the government gives its permission -- to be sued. And, as you might expect, when the government decides when and if the government can be sued, well, they have a tendency to side with themselves. To be fair, the government does give its consent to be sued from time to time. Many of the environmental statutes, like the Clean Water Act and the Safe Drinking Water Act, contain provisions that allow citizens to sue the EPA when the EPA fails to perform an act or duty. Just because the government consents to being sued doesn't mean that the government can't make it an unappetizing process. Citizen suit provisions -- against both federal and state agencies -- usually require extra obstacles, like formal notifications in advance of filing the lawsuit. Claims for civil wrongs against the government are barred unless presented in writing to the appropriate Federal agency within two years. The takeaway: Even when the government waives its immunity, it still partially cloaks itself in all manner of procedural defenses against a would-be plaintiff. It's interesting that the same behavior that will get a CEO indicted, or a company sued into bankruptcy, might not even be actionable against the government.

FOX NEWS

Fifteen states petition DC court to block new EPA power plant rules Attorneys general from 15 states filed a petition in federal court Thursday to block new EPA rules requiring massive cuts in emissions from power plants. Reuters reported that the states have asked the U.S. Court of Appeals for the D.C. Circuit to issue a ruling on the matter before Sept. 8, one year before the states are required to submit compliance plans to the agency. The new rules, announced by President Obama earlier this month, call for power plants to lower carbon emissions from 2005 levels by 32 percent by 2030. "Climate change is not a problem for another generation," Obama said in a video posted to Facebook after the Aug. 3 announcement. "Not anymore." On Thursday, West Virginia Attorney General Patrick Morrisey called the rule "the most far-reaching energy regulation in the nation's history, and the EPA simply does not have the legal authority to carry it out ... The Clean Air Act was never intended to be used to create this type of regulatory regime, and it flies in the face of the powers granted to states under the U.S. Constitution." West Virginia, which relies heavily on coal to produce electricity, is one of the states that has become ground zero in a battle with the White House over what some have dubbed the "war on coal." Morrisey was joined in Thursday's petition by colleagues from Alabama, Arkansas, Florida, Indiana, Kansas, Kentucky, Louisiana, Michigan, Nebraska, Ohio, Oklahoma, South Dakota, Wisconsin and Wyoming. The EPA said in a statement Thursday that it was confident the rule would be upheld in court, saying that it had a "sound legal and technical foundation." Attorneys general for 15 other states, as well as New York City and the District of Columbia issued a statement saying it supported the EPA rules.

ABC NEWS RADIO

Prosecutors Keeping Close Eye on EPA After Toxic Mine Spill The Environmental Protection Agency is vowing to make things right in Colorado, New Mexico and Utah after last week's accidental release of 3 million gallons of waste water from an old mine. But it be too little, too late? Rivers turned orange following the release, which was triggered by an EPA clean up team at Gold King Mine near Silverton, Colorado. A team of scientists and researchers have been working with the EPA to contain the spill and prevent the mine waste from moving further downstream. Though the EPA claims chemicals in the Animas River have already returned to pre-spill levels, prosecutors in those states are maintaining a close watch over the EPA's actions. Colorado Attorney General Cynthia Coffman says the impact of the waste water release is still very apparent, contrary to EPA test results showing improvement. "There is orange sediment on the bottom of the river, on the banks, on some of the rocks," Coffman said Wednesday. Even as EPA Chief Gina McCarthy visited Durango, Colorado, Wednesday, Coffman and her colleagues from New Mexico and Utah — which are downstream — say they are not ruling out suing the EPA. "We are going to move as quickly as we can," McCarthy told reporters earlier this week in Washington, D.C. "It does take time to review and analyze data," she continued. "As far as I know, we have been thankful that there is no reported cases of anyone's health being compromised." McCarthy heads to New Mexico Thursday to continue tracking the toxic spill's impact.